

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH,
INC.

Plaintiffs and
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

**ASSENTED TO MOTION TO IMPOUND MATERIALS CITED
IN EARTH PRODUCTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND
DESIGNATED AS CONFIDENTIAL BY PLAINTIFFS**

Pursuant to District of Massachusetts Local Rule 7.2 and Section 8 of the Stipulated Protective Order (Dkt. No. 30), Defendant Earth Products Inc. ("Earth Products") moves this Honorable Court for an Order impounding and sealing Defendant Earth Products Inc.'s Motion For Partial Summary Judgment Of Invalidity Of United States Trademark Registrations 2,249,826 And 2,199,118, And Memorandum In Support ("Motion for Partial Summary Judgment") and Exhibits D and E to the Declaration of Derrick Toddy ("Toddy Decl.")

accompanying that Motion. These materials are not voluminous, comprising a brief of 14 pages and 20 pages of exhibits together totaling approximately 34 pages.

This motion is necessitated by the fact that Plaintiffs designated interrogatory responses and deposition testimony quoted and/or discussed in Earth Products' Motion for Partial Summary Judgment as confidential under the Stipulated Protective Order and, despite Earth Products' request, did not agree to de-designate such materials. Accordingly, Earth Products requests an order authorizing its Motion for Partial Summary Judgment and Exhibits D and E to the associated Toddy Declaration to be filed under seal and impounded.

The Clerk should impound these materials as described in Section 8 of the Stipulated Protective Order (Dkt. No. 30), *i.e.*, until 30 days after the conclusion of this case in this District Court.

Pursuant to Section 8 of the Stipulated Protective Order, Plaintiffs Meynard Designs, Inc. and Earth, Inc. and Third-Party Defendant Planet, Inc. have assented to this motion.

Dated: October 23, 2007

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CERTIFICATE OF SERVICE

I certify that this ASSENTED TO MOTION TO IMPOUND MATERIALS CITED IN EARTH PRODUCTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DESIGNATED AS CONFIDENTIAL BY PLAINTIFFS is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF).

Counsel for other parties are also being served by electronic mail on the date of electronic filing.

Dated: October 23, 2007

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